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C O N F I D E N T I A L STATE 056261

SIPDIS, USUN FOR GERMAIN AND KUJAWINSKI

E.O. 12958: DECL: 05/28/2034
TAGS: PREL UNSC IZ KU
SUBJECT: GUIDANCE: IRAQ RESOLUTION RECOMMENDATIONS

Classified By: IO A/S Esther Brimmer. Reason 1.4 (b) and (d).

¶1. (C/REL to UN, GB, FR, CN, RU) Washington requests USUN to draw from the following U.S. policy positions as background in discussions with the UN Secretariat and P5 members. The Department will email post a separate non-paper providing facts to share with the UN and the P5. Per UN Resolution 1859, the UN Secretariat was instructed by the UN Security Council to review and draft by June 2009, a Secretary-General's report on facts relevant to consideration by the Council of actions necessary for Iraq to achieve the international standing equal to that which it held prior to the adoption of resolutions subsequent to resolution 661 (1990).

¶2. (C/REL to UN, GB, FR, CN, RU) Begin Non-paper:

RESOLUTIONS PERTAINING SPECIFICALLY TO IRAQ

Development Fund for Iraq (DFI) and International Advisory and Monitoring Board - UNSCR 1483 (2003) and 1859 (2008):

UNSCR 1859 was granted with the understanding by UNSC members that Iraq would use 2009 to make significant progress towards reaching a settlement of outstanding claims and debts. As the DFI arrangements, including immunities, are exceptional and temporary, we recommend Iraq:

--alleviate its need for the immunities by reaching debt reduction agreements and resolving outstanding Saddam era claims.

--establish a DFI-like account for the deposit of hydrocarbon proceeds that is overseen by the Committee of Financial Experts (COFE; Iraqi body to replace IAMB), maintains transparency and auditability after the expiration of the UNSCR, and ensures that the five percent payment to the UNCC continues after the expiration of UNSCR 1859, or that the terms for payment are renegotiated in a manner that is acceptable to all parties, including the UNCC Governing Council, which has authority delegated from the UNSC.

WMD and Missile Restrictions - UNSCR 687 (1991):

We support UNSC action to remove the restrictions as soon as Iraq submits a letter to the UNSC President:

a)outlining the steps the Government of Iraq has already taken to adhere to international norms of nonproliferation;

b)committing to:

--establish and enforce comprehensive export controls consistent with international standards (i.e., the Missile Technology Control Regime, Australia Group, Nuclear Suppliers Group, and Wassenaar Arrangement), including transit/transshipment, catch-all controls and brokering;

--establish and enforce strong and effective border controls and enforcement procedures/penalties;

--bring into force and implement an Additional Protocol to its IAEA safeguards agreement;

--subscribe to the Hague Code of Conduct against Ballistic Missile Proliferation (HCOC);

--forego MTCR Category I offensive military missiles;

--endorse the Global Initiative to Combat Nuclear Terrorism;

--apply the IAEA Code of Conduct on Safety and Security of Radioactive Sources and Related Import-Export Guidance;

--accede to the Joint Conventions on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management;

--accede to the Convention on Physical Protection of Nuclear Materials and the 2006 Amendment; the Convention on Supplementary Compensation for Nuclear Damage; the Convention on the Nuclear Safety; and the Nuclear Terrorism Convention;

c) report voluntarily to the Security Council on an annual basis on its progress toward achieving these steps.

--These steps should be taken to demonstrate that Iraq is adhering to the highest nonproliferation standards, and to facilitate lifting of the relevant restrictions by the Security Council.

--We would also expect Iraq to obtain from the IAEA Board of Governors the necessary formal finding that Iraq is in full compliance with its safeguards agreement, as required in UNSCR 707, before action is taken.

Prohibition on Trade In Stolen Iraqi Cultural Property -- UNSCR 1483:

We recommend leaving this provision in place until Iraq is able to protect its cultural property. Without this UN obligation, there would be no world-wide ban specifically related to cultural property stolen from Iraq, and no obligation to take steps to return Iraqi cultural property.

Conventional Arms Ban - UNSCR 661 (1990) and 687 (1991):

We recommend that the UNSCRs be lifted as soon as Iraq has appropriate export controls and end-use verification mechanisms in place to prevent the flow of arms from Iran, Syria and others to insurgents or entities of concern. A two-stage approach with the following elements should assist Iraq in this regard:

--Stage 1: Government of Iraq makes commitments by submitting a letter on export controls and end-use verification to the UNSC President:

a)outlining the steps it has already taken to adhere to international norms of conventional arms export controls and end-use verification;

b)committing to take further steps to:

--enact domestic arms control export legislation to establish and enforce appropriate export controls (including authorities, penalties and regulatory bodies)

consistent with international standards, including transit/transshipment, catch-all controls and brokering;

--implement an end-use monitoring and verification system, including layered mechanisms to control end-use of conventional arms, weapons systems and dual-use technology;

--implement a policy not to transfer conventional arms and related dual-use goods and technologies as listed in the Wassenaar Arrangement's munitions and dual-use control lists to countries that are subject to a UN or bilateral arms embargo; or to any recipient where there is an unacceptable risk that the items could be diverted to such countries or to terrorists;

--establish appropriate border controls and enforcement procedures/penalties, and demonstrates a willingness to enforce them coupled with robust training programs in export and border control;

--designate a single POC in the Government of Iraq (e.g., Under-Secretary (or equivalent) in the Ministry of Defense) for arms procurement and arms control;

c)volunteering to report to the UNSC on an annual basis on its progress toward achieving these steps; and

d)accepting an international verification mechanism prior to January 1, 2011.

--Stage 2: UNSC action to lift restrictions then requires the Government of Iraq to establish appropriate export controls and end-use verification mechanisms, as it has committed to do. These include:

--establishing capable (staffed, trained and equipped) authorities and entities to enforce international agreements, domestic laws, regulations, and procedures to control the export of conventional arms and dual-use technologies and ensure compliance with promulgated end-use practices;

--demonstrating a commitment to enforce export control and end-use verification of conventional arms according to established benchmarks;

--joining the Convention of Prohibitions and Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effects (Adopted Geneva, 10 October 1980) by signing and ratifying the CCW Framework Agreement and at least two of its five protocols;

--Adhering to Wassenaar Arrangement export control lists.

UNAMI - UNSCR 1500 (2003), 1770 (2007), and 1830 (2008):

We support UNAMI's mandate and presence in Iraq and expect to support an extension of the UNAMI mandate in August 2009, if one is requested.

Oil for Food Program - UNSCR 1546 (2004):

We strongly support closing the Oil-for-Food program as soon as outstanding OFF claims are settled. The Government of Iraq must:

--settle all outstanding OFF claims expeditiously;

--instruct its UN Ambassador within 30 days to provide monthly reports documenting progress. Should Iraq fail to make substantial progress within a limited period of time (e.g., three months), the UN should recommend adoption of the P5 agreed-upon approach to settling the claims within 45 days unless the Government of Iraq raises and substantiates objections.

Freeze and Return of Saddam-Era Assets - UNSCR 1483
(2003) and 1518 (2003):

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Our recommendations for UNSCR 1518 are still being finalized. We will forward septel.

Iraq-Kuwait Border Guarantee - UNSCR 687 2003) and 833 (1993):

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We recommend that the resolution remain in place until the Government of Iraq leadership takes steps to:

--Notify the Government of Kuwait of Khawr Abd Allah (KAA) waterway wreck-removal, prior to any removal operations;

--publicly accept UNSCR 833 and implement and abide by the recommendations of the UN Technical Committee;

--identify the land for resettlement and facilitate the resettlement of all members of Iraqi farming families currently living on Kuwait's side of the Iraq-Kuwait border;

--invite a UN border demarcation team and facilitate its efforts to complete its work.

Gulf War Missing/Kuwaiti National Archive - UNSCR 687 1991) and 1284 (1999):

We support lifting these UNSCRs as soon as Iraq has fulfilled its obligations under them. The Government of Iraq should:

--establish and implement a cooperation agreement with the ICRC, engage with the UN's High Level Coordinator to facilitate the search for and repatriation of Kuwaiti and third country national Gulf War dead and missing, actively engage in gathering eyewitness accounts, and invite Kuwaiti forensics teams to enter Iraq to complete their work;

--locate and return the Kuwaiti National Archives or offer compensation for the loss.

UNCC and Iraq's Five Percent Payment Obligation - UNSCR 687 (1991) and 1483 (2003):

We recommend that Iraq negotiate under UNCC auspices with Kuwait regarding the settlement of outstanding Kuwaiti awards. A UNCC-approved settlement (and complete payment of environmental awards) should be essential to considering the termination of the UNSCRs.

End Non-paper.

¶3. (U) Please report UN and other reaction to these suggestions to POC William Haldeman (IO/UNP),
HaldemanWE@state.sgov.gov.

CLINTON